



# City of West University Place

*A Neighborhood City*

## **CITY COUNCIL**

Susan Sample, Mayor  
Bob Kelly, Mayor Pro Tem  
Burt Ballanfant, Councilmember  
Brennan Reilly, Councilmember  
Mardi Turner, Councilmember

## **STAFF**

M. Christopher Peifer, City Manager  
Alan Petrov, City Attorney  
Thelma Lenz, City Secretary

## **City Council Meeting**

**Notice is hereby given of a regular meeting of the City Council of West University Place** to be held on **Monday, December 7, 2015**, beginning at **6:00 p.m.** in the **Municipal Building**, 3800 University Boulevard, West University Place, Texas, for the purpose of considering the following agenda items.

All agenda items are subject to action. The City Council reserves the right to meet in a closed session on any agenda item should the need arise and if applicable pursuant to authorization by Title 5, Chapter 551, of the Texas Government Code.

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Call to Order

### **1. Public Comments**

This is an opportunity for citizens to speak to Council relating to agenda and non-agenda items. If the topic the speaker wishes to address is on the agenda, the speaker can either speak at this time or defer his/her comments until such time the item is discussed. Speakers are advised that comments cannot be received on matters which are the subject of a public hearing once the hearing has been closed. Speakers are required to register in advance and must limit their presentations to three minutes each.

### **2. Citizen Star Award**

Matters related to the presentation of a Citizen Star Award. ***Mr. Tim O'Connor, Parks and Recreation Director***

### **3. Future Agenda Items**

Matters related to future agenda items. *Discuss and take any desired action.* ***City Council*** [see Future Agenda Items List]

### **4. Consent Agenda**

All Consent Agenda items listed are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council member requests in which event the item will be removed from the Consent Agenda and considered in its normal sequence on the agenda.

#### **A. City Council Minutes**

Approve City Council Minutes of the November 9, 2015 and November 16, 2015. *Recommended Action: Approve Minutes.* ***Ms. Thelma Lenz, City Secretary*** [see Minutes]

**B. Temporary Lease Agreement**

Matters related to approving a temporary lease agreement with Calco Contracting, LTD for temporary use the property at 5004 Dincans Street. *Recommended Action: Approve the temporary lease agreement with Calco Contracting, LTD and authorize the city manager to execute the agreement and any subsequent requests for extension or modifications to the lease agreement that does not encumber the City's use of the property beyond the duration of the Upper Kirby District's project.* **Mr. Dave Beach, Public Works Director** [see Agenda Memo 4B]


**4. Adjourn**

**NOTE:** Immediately following adjournment of the Council meeting, City Council will attend the Christmas tree lighting events at 6104 Auden (approximately 6:30 p.m.).

In compliance with the Americans with Disabilities Act, if you plan to attend this public meeting and you have a disability that requires special arrangements, please contact City Secretary Thelma Lenz at 713.662.5813 at least 24 hours prior to the meeting so that reasonable accommodations can be made to assist in your participation in the meeting. The Community Building is wheel chair accessible from the west entrance and specially marked parking spaces are available in the southwest parking area. Special seating will be provided.

I certify that the attached notice and agenda of items to be considered by the West University Place City Council on December 7<sup>th</sup>, 2015 was posted on the Municipal Building bulletin board on December 4<sup>th</sup>, 2015 at 11:30 o'clock a.m.

(SEAL)

  
Thelma A. Lenz, TRMC, City Secretary

# FUTURE AGENDA ITEMS

Shaded items are on immediate agenda.

Date	Item	Synopsis & Recommendation
12/07/15	CC Meeting @ 6:00 pm Christmas Tree Lighting @ 6:30 pm	Matters related to the City's Christmas Tree Lighting. <i>Recommended Action: Attend the City's Christmas Tree Lighting</i>
12/07/15	Citizen Star Award	Matters related to the presentation of a Citizen Star Award. <b>Mr. Tim O'Connor, Parks and Recreation Director</b>
12/07/15	Temporary Lease Agreement	Matters related to a temporary lease agreement with Calco Contracting, LTD for 5004 Dincans Street. <i>Recommended Action: Approve the Lease Agreement. Mr. Dave Beach, Public Works Director</i>
12/14/15	Approval of Bond Sale	Matters related to the City's bond sale. <i>Recommended Action: Discuss and take any desired action. Ms. Rhonda Daugherty, Finance Director</i>
01/04/15	Facilities Master Plan Task Force Workshop	Matters related to the Facilities Master Plan Task Force, including but not limited to, the scope, composition and other related topics. <i>Recommended Action: Discuss and take any desired action. Bob Kelly and Mardi Turner</i>
TBD	Video Distribution of Council and Board Meetings	Matters relating to the availability of City Council and Board/Commission meetings by internet video. Discuss and take any desired action.
TBD	Town Center Zoning	Matters related to Town Center Zoning. <i>Recommended Action: Discuss and take any desired. City Council</i>
TBD	Parkland Acquisition and Funding (Workshop)	Matters related to an update on parkland acquisition, development and funding. <i>Recommended Action: Discuss and take any desired action. Mr. Tim O'Connor, Parks and Recreation Director</i>
TBD	BCycle Station	Matters related to a BCycle station in West U that would provide good access to Rice Village. <i>Recommended Action: Discuss and take any desired action. Councilmember Brennan Reilly</i>
TBD	Poor Farm Ditch	Matters related to Poor Farm Ditch. <i>Recommended Action: Discuss and take any desired action. Mayor Susan Sample</i>
TBD	Investment Policy	Matters related to amendments to the City's Investment Policy and Investment Strategies. <i>Discuss and take any desired action. Ms. Rhonda Daugherty, Finance Director</i>

Date	Item	Synopsis & Recommendation
TBD	Street Parking and Parking Violations	Matters relating to Parking Etiquette Program, designated drop off zones, parking on sidewalks, and guidance to staff regarding parking violations. <i>Discuss and take any desired action.</i>
TBD	Buffalo Speedway	Matters related to Buffalo Speedway Replacement Project. <b>Mr. Chris Peifer, Interim City Manager</b>
TBD	Evelyn's Park Development	Matters related to the development of Evelyn's park in Bellaire, including possibility of shared parking arrangements with the City of Bellaire for Evelyn's park. <i>Discuss and take any desired action.</i>

12/4/2015 2:19:23 PM



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M. Chris Peifer, Interim City Manager  
Alan Petrov, City Attorney  
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## CITY COUNCIL MEETING MINUTES

The City Council of the City of West University Place, Texas, met in special and regular session on **Monday, November 9, 2015**, in the Municipal Building, 3800 University, West University Place, Texas beginning at **6:00 p.m.**

Agenda Items were as follows:

**SPECIAL MEETING/WORKSHOP** (held in the Council Chamber Conference Room at 6:00 p.m.)

Agenda Items were as follows:

**Call to Order.** Mayor Sample called the special meeting to order at 6:00 p.m. in the Council Chambers. Council and Staff in attendance were: Mayor Pro Tem Kelly, Councilmembers Ballanfant, Reilly and Turner, Interim City Manager Peifer, City Secretary Lenz, and City Attorney Petrov.

### 1. **City Manager Position**

Matters related to the city manager position.

#### **Recess Special Meeting and Convene Executive Session**

Notice is hereby given that the City Council will convene into executive session in accordance with the following provisions of Chapter 551 of the Texas Government Code:

At 6:00 p.m., Councilmember Turner moved to recess the special meeting and convene into executive session. Councilmember Ballanfant seconded the motion. **MOTION PASSED.**

**Ayes:** Sample, Kelly, Ballanfant, Reilly, Turner  
**Noes:** None  
**Absent:** None

### 2. **Close Executive Session and Reconvene Special Meeting**

At 6:31 p.m., Mayor Sample closed the executive session and reconvened the special meeting.

### 3. **Adjourn**

With no further business to discuss, Councilmember Turner moved to close the special meeting at 6:32 p.m. Councilmember Ballanfant seconded the motion. **MOTION PASSED.**

**Ayes:** Sample, Kelly, Ballanfant, Reilly, Turner  
**Noes:** None  
**Absent:** None

## **REGULAR MEETING (beginning at 6:30 p.m. in the Council Chambers)**

Agenda items were as follows:

**Call to Order.** Mayor Sample called the meeting to order at 6:32 p.m. in the City Council Chambers. Council and Staff in attendance were: Mayor Pro Tem Kelly, Councilmembers Ballanfant, Reilly and Turner, Interim City Manager Peifer, City Attorney Petrov, City Secretary Lenz, Public Works Director Beach, Parks and Recreation Director O'Connor, and Police Chief Walker.

Councilmember Ballanfant led the Pledge of Allegiance.

City Secretary Lenz confirmed that the notice of this meeting was duly posted in accordance with the Texas Government Code, Chapter 551.

### **4. Public Comments**

This was an opportunity for citizens to speak to Council relating to agenda and non-agenda items.

**Eddie Matthews**, 5906 Fordham, spoke regarding the three Memorandums of Understanding (MOUs) on the agenda. He said the MOUs state that the other parties to the MOUs are required to maintain liability insurance and include the City as an additional insured in the amounts of \$1,000,000 and \$2,000,000 and he is concerned as to whether those amounts are considered adequate and reasonable by today's standard, particularly considering West U is fairly a wealthy community.

**David Dutch**, 3901 Rice, spoke to say that he hopes Parks and Recreation Director O'Connor and Alida Drewes can put their differences aside and he asked that Council give Ms. Drewes another chance and allow her to return to the City's institutions.

**Stan McCandless**, 3712 Rice Boulevard, spoke to say that he is upset with Item 9 on the agenda. He said church and state are separated and said he believes having Sunday school in the Community Building is inappropriate and the fees they pay hardly cover the costs. He said the church has seven properties that they own so he can't believe they can't find another place to hold Sunday school.

**Alida Drewes**, 6112 Fordham, spoke to say that she has notified the City several times about her hearing disability and still there is nothing in the Chambers or the Library that is an aid to the hearing disabled. She also said the City does not support veterans and that it refuses service to citizens as a punishment. She said Council acts as the City's fiduciary, yet the Parks Director uses the City's money for private parties and charges citizen's for events that should be free to West University citizens.

### **5. City Manager Position**

Matters related to taking any desired action as a result of the executive session regarding the city manager position. *Recommended Action: Discuss and take any desired action.*

Councilmember Turner moved to table discussion. Mayor Pro Tem Kelly seconded the motion.  
**MOTION PASSED.**

**Ayes:** Sample, Kelly, Ballanfant, Reilly, Turner

**Noes:** None

**Absent:** None

**6. Facilities Master Plan Task Force**

Matters related to the Facilities Master Plan Task Force including, but not limited to, the scope, composition and other related topics. *Recommended Action: Discuss and take any desired action.*

Mayor Sample said that she requested this be on the agenda and said Council has had one round of interviews, with another round scheduled for this week. She said during the first round of interviews it was realized that Council doesn't have a scope for the Task Force or how many people will be on it. She said Council is sort of at a crossroads with respect to some important decisions about the proposed review and suggested rewrite of the recently updated comprehensive Facilities Master Plan (the Plan) and now that Council has been faced with the first of potential committee member interviews, she feels she needs to talk about her philosophy on planning of City facilities and what she thinks is an appropriate scope of the Task Force.

Mayor Sample said the Plan is simple in objectives and succinct in its discussions and, therefore, is not so cumbersome that residents are discouraged from reading it. She said recommendations resulting from the Plan would not necessarily be implemented currently, but will provide a reasonable guideline to future Councils when timing is appropriate.

Mayor Sample asked Jeff Gerber, President and CEO of PGAL, the architecture and planning firm that performed the Facilities Master Plan assessment, to discuss the Plan's goals and the process that went into it.

Mr. Gerber spoke to say that his firm completed both the City's 2006 and 2015 Facilities Master Plans and noted that all of the West U projects that were constructed since 2006 were based upon the recommendations within those Plans. He then presented a brief PowerPoint presentation to highlight the process and what is contained in a facilities plan. He said there is a 10-year planning window that gives Council information to make decisions, evaluates existing facilities, projects what future staff requirements are and the spaces necessary to accommodate those people, creates multiples options for both using existing facilities and potentially using new facilities to satisfy needs, identifies budgets and timelines for those improvements, and provides recommendations and options.

Mr. Gerber reviewed the reasons to have a master plan, what a good facilities master plan includes, what tools are used to develop a plan, and what a facilities master plan is not.

Mr. Gerber said the goals identified through the various councils throughout the development of West U's master plans include consolidation of the city services to improve customer service, providing better facility options and locations for satisfying consolidation of those services, creating a long term planning strategy for aging facility replacements and the impact on the property configuration, improving parking in the City Center, maximizing the value of city-owned property and surrounding properties, and maximizing use of available city property.

After Mr. Gerber completed his presentation, Mayor Sample continued with her philosophy regarding the Facilities Master Plan. She said what she sees is a document that should be prepared, for the most part, by professionals. She said while she appreciates the need for a citizen task force and other types of input on important matters, the input has to be appropriately requested and not unduly burdening the residents and not overused so that residents are forced to do the job

that Council was elected to do. Mayor Sample said asking a group of citizen lay persons to do all the work necessary to produce a completely reworked facility master plan of this quality would be short-sighted at best and really more of a breach of Council's fiduciary duties to the residents. She said while the city has citizens with relevant qualifications, it is just not appropriate to delegate these essential government duties to them.

Mayor Sample said one councilmember has stated that since the City had a Parks Master Plan Task Force, the City should have one for all of the City's facility buildings, but she said the key difference is that residents are the direct end-users of the parks making their input critical into what amenities they prefer. She said although the residents are the beneficiaries of the activities occurring in the buildings (i.e. trash pick-up and police and fire services), the residents do not visit the work areas where the city employees do all the work to make these things happen.

Mayor Sample said "when is citizen input appropriate in situations such as this, you might be asking?" She said she has her thoughts on it, but after spending most of last week listening to audio recordings of every single council meeting from the past year, she found a common theme and impactful statement that said it best, which was made by Mayor Pro Tem Bob Kelly. She said when speaking about the need for resident input, Mayor Pro Tem Kelly differentiated long range municipal planning from actual implementation. She said at the City Council meeting of May 4, 2015, Mayor Pro Tem Kelly, at the time citizen Kelly, said "there's a difference between consideration of a master plan and implementation." Mayor Sample said Mayor Pro Tem Kelly noted that what the then Council did wrong, in his opinion, was implement the Master Plan, thereby making decisions for future councils. She said he rounded out his discussion with this statement "before implementation is when you go out and find whether your support is there." Mayor Sample said she agrees with Mayor Pro Tem Kelly on this because resident input is important when there's a decision to be made on implementation because that's when the resident will feel the effects, either through the removal, rebuild or reconfiguration change in a facility that the residents frequent or through the impact of a tax increase because of a change.

Mayor Sample said she suggests limiting the scope of the task force to elements of West University's facilities that have the potential to be modified during this term, which to her, would only be the Library, and because of the proximity to the Library, the Community Building.

Mayor Sample said West U is lucky to have a branch of Harris County Library, but she suspects that the City has this good fortune because of the City's support of the physical building that houses it. She said, however, that building has become outdated, has physical shortcomings and there are conceptual problems with the space it offers, because libraries have changed in ways not supported by the building. She said in addition to being a repository for books, modern libraries are electronic media centers and gathering places for people of all ages. She said in the future, the County could close the West U library because it's too small, does not fully meet current safety and accessibility code, can't offer the full range of today's electronic media and it fails to meet the county's standard for amenities such as parking. She said the Facilities Master Plan objectively needs to incorporate plans to upgrade, expand or replace the library and because it is located near the Community Building and the Senior Center, some synergy between those buildings should be considered. She said there are many options, but doing nothing would not be serving the residents. She said a study such as this, with a discreet function, lends itself perfectly to a task force and the output would be of real value; so, she proposes the limited scope and is adamantly against the expense of an all-encompassing review and rewrite of the entire plan, complete with subcommittees, focus groups, surveys and everything else suggested.



Councilmember Turner said she agrees regarding the Library and the Community Building as they are certainly the two facilities most in need of a serious review, leaving aside the Facilities Maintenance Building, which probably needs to be looked at, too. She said the thing she is disturbed about now is not the concept of a task force or the concept of a plan, but she just realized today that this Council had never received the plan. She said she has only today been able to read the entire finished plan submitted in July and doesn't believe it has ever been put on the website, so there has been no level of sharing of the final finished plan with any of the citizens, while at the same time Council has been soliciting residents to be appointed to revise something they've never seen. She said she is not trying to make waves, but thinks there is more information out there that people need to react to before Council goes too much further with appointing a task force, for instance deciding on what the scope of the task force would be.

Councilmember Reilly said the prior City Council approved and adopted a Facilities Master Plan, so the one Councilmember Turner received in July is not the approved Facilities Master plan adopted by the current Council.

Councilmember Turner said what was adopted by the prior Council was adopted with the intent to make certain modifications resulting from the decision not to go ahead with the land swap, which was one of the changes incorporated into the final product from July.

Mr. Gerber confirmed that some modifications, such as changes to the land usage in the recommendation section, were included in the July copy. He confirmed that the option of exchanging property was removed.

Mayor Pro Tem Kelly said what he wants to charge the Task Force with, taking the fact the land swap and the Super Block are off the table, and the church will be building their facility on Milton, figuring out how the plan will be molded without those things.

When trying to confirm exactly what options were still in the Plan, Mr. Gerber said it depends on timing, because long before he got involved with the facilities planning for the City in 2006, the City had been acquiring property in this area, which became part of the 2006 Plan and consolidating properties as they became available has been part of the Plan ever since and has remained part of a long-term aspiration. He said whether that happens in concert with facilities replacement is a completely different discussion, but the intent of this Plan was to give the City a full range of options that included using existing property doing different combinations so the City has the benefit of the full opportunities to make decisions.

Councilmember Turner confirmed with Mr. Gerber that the Super Block is still potentially a visionary objective, but not required to move ahead.

Councilmember Reilly asked Mayor Sample, since she voted in May for the Facilities Master Plan that included a Super Block, if it is her intention, as part of her long range plan, to condemn the church's property and the residential property adjacent to City Hall so that something can be built. Mayor Sample responded that the only person that actually made that statement to condemn church property was Councilmember Reilly himself. She said she does not intend to condemn church property. She said the reason for this Plan is to leave the City's options open and not to bind the hands of future councils by taking things out of the Master Plan, like consolidation of properties. She said to just leave it open.

Councilmember Reilly asked Mayor Sample if by “leave it open” she means that the City will eventually acquire the church’s land in the Super Block.

Mayor Sample said “no” that is not what she said or meant when she said “leave it open.”

Mayor Pro Tem Kelly asked Mayor Sample if she does not want to do anything with the Facilities Master Plan as it exists now, then the option is left in that somehow the City is going to acquire that property that is left on the Super Block after the church builds what they are going to build. He asked so how would the City acquire it?

Mayor Sample said how would the City acquire it in 30 to 50 years? She said maybe they don’t want that Sunday school anymore and, since this is the future visionary, then the church may be willing to talk. She said maybe the City will want its buildings to be contiguous to the other buildings rather than behind City Hall. She said things like that can come up and it’s good to leave that open. She reiterated that she never said to condemn property.

Mayor Pro Tem Kelly said that is the philosophical reason for a task force. He said Jeff Gerber is the perfect person here because he was there when he was mayor and the then Council went through the process for the recreational facilities plan. He said they did that with a task force, focus groups, surveys, staff input and town hall meetings. He said there was a tremendous amount of citizen input into how it was developed. He said it doesn’t mean that Council went with everything the citizens said, but there was a plan devised that was put to the voters.

Mayor Sample said it had to go to the voters because it was a \$26,000,000 bond issue.

Mayor Pro Tem Kelly said there was another task force that came up with a \$3,000,000 issue that was not going to be put to the voters, but he objected. He said he didn’t necessarily agree with the plan, per se, but there wasn’t citizen input and said if you get through what all of what the mayor said tonight, it basically cuts out citizen input and he thinks citizen input needs to be in the Facilities Master Plan.

Councilmember Turner said there is nothing happening here other than an assessment of the City’s current properties, which are labeled between excellent, fair, poor and good. She said there are some suggested projects that the City could move ahead with, not just the Library and the Community Building, but also the Maintenance Facility and the Animal Control Facility, all of which have triggers that are dictated by Council. She said then there would come a time when it would be appropriate to bring in a task force to ask what would you want this building to look like and what kind of facilities would you like to have?

Mayor Pro Tem Kelly said he doesn’t know if he necessarily agrees with Councilmember Turner, but in the 30,000 foot view he thinks the City has a Master Plan that contemplated a Super Block and a land swap, but Jeff said this plan took some of that out of there and that there is an Option 1 and 2 without it. He said he envisions that the task force would be broad enough and representative enough of the community to start the ball rolling with the citizen input.

Councilmember Turner asked regarding what topic?

Mayor Pro Tem Kelly said now that the church is going to build on Milton Street, which is right in the middle of what use to be the Super Block, and the fact that the City is not having a land swap as it exists right now, the topic for the task force would be to look at what proposed changes would they

recommend to Council based on that and how it would be molded. He said Council will need to provide the task force with information so that they know where all the properties are located, give them the Plan, maybe employ PGAL to work with them to decide how to mold it and then they would come with what they might do. Mayor Pro Tem Kelly then said the City might want to have focus groups, too.

Councilmember Reilly reminded Councilmember Turner that the whole debacle about the Super Block started with a City Council meeting in October 2014 when the then City Council approved a sale of the current Maintenance Facility, adopted a set of documents that included a proposal to trade the Library, the Community Center, and the Maintenance Facility to West U Baptist Church. He said when that was done, residents were saying this has all been vetted before and was contemplated by the 2006 Master Plan, so the then City Council took a document with essentially zero citizen input. He said a document that was approved through a consultant driven process, is now being cited seven years later as supporting the sale of the library. He said before making policy decisions that are in the Facilities Master Plan, he thinks Council should have a task force review the entire Plan and look for the number of significant policy decisions and omissions.

Councilmember Reilly said he thinks that the task force needs to have consultant and citizen input, because it's not just going to be just a few people and a very slow process, but rather it will take a long time because the task force will need to evaluate whether the policy decisions make sense and whether the City really wants to develop as suggested in the Plan. He asked does Council want to development the Dincans facility into a Maintenance Facility and does the City think it needs to spend \$200,000 to move the dog pound from Braeswood to Dincans and are there better uses for the Dincans Property? He said he can think of a better use for the Ruffino Hills property, but there is no recommendation for that property, though there should be.

Councilmember Turner quoted from the first paragraph of the Facilities Master Plan. It reads: *The goal of the Facilities Master Plan Update is to identify the space needs for each department of the City of West University Place and to create a long range facilities plan to satisfy these needs. The Facilities Plan will enable the City of West University Place to continue to provide high quality services to the citizens of West University Place at a level established by the City Council.* She said she doesn't see anything in there that is called policy. She said she sees recommendations, suggestions, and potential timelines, but nothing that states that the City is to go buy a piece of property and build a building.

Councilmember Reilly responded that it is a policy decision about whether to build a new Senior Center/Library on top of residences and land that is currently owned by West University Baptist Church.

Councilmember Turner pointed out that is one of nine options.

Councilmember Reilly said he would not include that option in the Master Plan. He said if the average citizen was told that City Council approved a plan in which it would turn an entire half of block into a new Senior Center/Library, they would say that they thought there was an election about that and the guys who were in favor of that lost.

Councilmember Turner said if one reads the future replacement of the Community Building/Library section of the Master Plan, it doesn't say anything close to that. She said, in fact, it is only if the City can purchase some of the additional properties that the plan becomes a little more expansive.

Councilmember Reilly said he agrees 100% with Mayor Pro Tem Kelly in that City Council needs to have citizen input into the decisions that are inherent in the Master Plan document. He said one of the policy decisions inherent in the document is the contemplated doubling of the City's police force within the next 15 years. He said he believes doubling the police force is a significant policy decision that would have tremendous ramifications on the City's budget and it ought to be the subject of discussion by the citizens rather than just a throw-away line included in a facilities master plan. He said it would be a significant increase in facilities because the City doesn't have near enough room to house doubling the police force.

Police Chief Walker spoke to say he doesn't know where that information came from. He said what he has said before is that from what he is seeing on the street and what he anticipates happening, there may be at some point in the future the need to hire more police. He said it's not today and he reiterated that he doesn't know where the doubling of the police force came from.

Councilmember Reilly said it is in the document and it such a significant decision that if the City assesses that it is what the City needs, Council will need to look at acquiring land.

Councilmember Turner pointed out that it is not a decision, but rather a projection.

Councilmember Ballanfant spoke to say there are residents whose professional careers are in line with what is needed who could probably take this proposal and convert it into what he thinks people want. He said this is being called a Facilities Master Plan Task Force, but that assumes a policy-decision. He said the first step is to have a Facilities Evaluation Task Force and then they can bring to Council a thorough analysis of what is being proposed, what's needed and what would have to be done if Council wanted to do A, B, C, or D.

Councilmember Turner said the document already indicates that one of the possible projects that PGAL has proposed is a building evaluation that evidently has never been done, so there are some small conclusions about some of the buildings that are in fair, good, poor condition, but there has never been a ground up appendectomy level of each of the buildings.

Mr. Gerber confirmed that what Councilmember Turner said is true and said that is a normal recommendation, because it gives Council a heads-up about nearing projects, such as a new roof, new chiller, etc., in order for staff to put on the Capital Improvements Projects list. He said those are big expenditures that help Council and staff plan for them down the road, which is why the assessment is recommended and updated.

Councilmember Reilly said he certainly thinks that an assessment of buildings is something that requires professional review and doesn't feel there would be much citizen value added, but there is a tremendous amount of citizen value added in deciding what the City wants to do with the property on Dincans in the long-run, the maintenance facility, the Library and the Community Building. He said those are not decisions for which a consultant is going to provide the only value added. He said citizens will have tremendous value added into decisions regarding those facilities.

Councilmember Turner said she agrees with Councilmember Reilly on the Library and the Community Building.

Mayor Sample said she had a question for Mayor Pro Tem Kelly. She said she knows that he and Councilmember Reilly were trying to minimize her statement by saying she read it, but she said

while reading her statement, something else was brought to mind. She asked Mayor Pro Tem Kelly if he was mayor when the police station was done and Mayor Pro Tem Kelly responded yes.

Mayor Sample said she does not recall voting on the funds spent to build the police station, nor having a town hall meeting on the issue, when he was mayor. She confirmed that the amount spent was \$6.9 million and there was no vote and asked Mayor Pro Tem Kelly how that's different from the proposed Master Plan.

Mayor Pro Tem Kelly responded that he and then city manager, Michael Ross, had the exact same conversation about whether or not to spend \$6,000,000 without going to the citizens for a vote. He said Mr. Ross told him, with the input of the Police Chief, that with the existing police building if there was another occurrence like with Tropical Storm Allyson, the entire police structure, electronics and everything were at risk of having water damage and could be a real catastrophe for the City. He said it was said that it was common usage within cities when dealing with public safety that the city would proceed with certificates of obligation and, therefore, expedite replacing the police facility with an updated, electronic facility. He said all the electronic equipment in our new police facility is on the second floor, which is not by happenstance. He said it is up there because if the lower part of the building gets flooded, staff can continue to use the electronics gear.

Mayor Sample asked if he was blaming the guy who's not here.

Mayor Pro Tem Kelly said public safety is the reason the City did not go to the voters for a vote on the \$6 million plus.

Councilmember Reilly pointed out that there is an exception in the statute for public safety. He said in the Certificate of Obligation (CO) statute, there's actually a special rule for CO's for public safety.

Mayor Pro Tem Kelly said Maybe Mike [Ross] advised him of that and Mayor Sample said, ok, it's consistent.

Mayor Pro Tem Kelly said there was an issue then as to where the new police facility would be located, because it is germane to the question as to whether or not to get citizen input or staff only input. He said there was a move to put the police station where the public works building is currently and he doesn't remember anybody bringing up a facility master plan and saying that is not where it's going to go or that's not where it needs to be put. He said it was looking at time right then where would be the best place to put that new police station and there was a serious consideration of tearing down the public works building and putting that police station there and moving the public works facility to City Hall. Mayor Pro Tem Kelly said this is a good example of what is done with public opinion. He said he told the Council at that time, because there were several people on the council, George Boehme being one of them, that were pushing really hard to put that police station over there and tear down that public works building. He said he told them that he understood the necessity to do the project quickly because of the matter of public safety and that it could be done with certificates of obligation, but he was not going to support tearing down a perfectly fine public works building unless they put that to a vote to the citizens. Mayor Pro Tem Kelly said after much discussion with the city manager, police chief and council, it was voted that it was a necessity for public safety for the building to be built quickly and, therefore, it would not go to the vote about tearing down the public works building and put the police station at City Hall. He said it was always in his administration, particularly when it came to the facilities of recreation, and to this master plan today, there is never too much public opinion. He said he is fully aware of the fact that there are citizens out there that don't believe other citizens have enough sense to figure this stuff out. He

said this Council has heard some people that were interviewed for the Master Plan Task Force say the same thing. He said when the swimming pool was being built, council got all kinds of citizen input, i.e. how big the pool should be, where it should be, etc. He said it doesn't mean that it overrode the consideration of building an Olympic-size pool specification wise, but it means that the City got it, the citizens felt a part of it and when it went to an election there was a lot of opposition, and it was a very organized opposition and that's good, cause it went to a vote and it was decided that \$20 million or whatever it was bond that the City did float, or maybe it was less than that, it was decided on a difference of about 200 or 300 votes, but when it was over it was over, people who lost accepted it, they had a vote, they got to come forward and vote on whether they wanted it or not, and they lost.

Mayor Pro Tem Kelly continued and said the City had an election on this facilities master plan, but the people who lost can't get over it. He said if one wants to know why they can't get over it, read what's going on in some of the newspapers to see what is driving a lot of this stuff. He said they can't get over the fact they lost and that's what is being dealt with here. He said he thinks that there is still a group that thinks it knows what is best for the city on its facilities master plan and that citizen input, a task force, a focus group, surveys and town hall meetings are not needed because they can decide for us.

Councilmember Turner said if there was a project that the City wanted to promote, which she is not hearing yet, then she would whole-heartedly support the use of a task force and citizen input.

Mr. Gerber spoke to say that he believes it's helpful to add to the discussion about the police department, because in the 2006 plan there were 7 or 8 different locations considered for that facility, which is consistent with this plan giving the City lots of different options. He said eventually when the Council was ready to move forward with the project, they looked at all the different options and it enabled the discussions with the citizens and ultimately the City chose to do the addition to the City Hall. He said that is a success story of how a city plan should work.

Mayor Sample confirmed with Mr. Gerber that the police station location that was ultimately selected was one of the options in the 2006 master plan. When Mayor Sample informed Mayor Pro Tem Kelly that he said it wasn't one of the options, Mayor Pro Tem Kelly said he never saw it.

Councilmember Turner said this Plan has not yet been approved by this Council. She said it was agreed in June when the previous Council went forward with the plan that this Council would receive the new updated plan for it to vote on when received.

Councilmember Reilly asked Councilmember Turner if she would vote to approve the plan that is in front of her right now. She said she would like to have an opportunity to look at it as opposed to just skimming it.

Councilmember Ballanfant said he believes Councilmember Turner comments would support what he was proposing, which is that Owen Rutz and at least two other people whose professional lives revolve around facilities analysis, who are citizens of this community, could take a look at the plan and report the various options and evaluations they would undertake. He said instead of a Facilities Master Plan Task Force, he suggests a Facilities Evaluations Group.

Councilmember Reilly asked Councilmember Ballanfant would he recommend as part of the long-term facilities master plan that there be a recommendation, for example, about what to do with Ruffino Hills or what to do with the Dincans Facility?

Councilmember Ballanfant responded that he would prefer that Council take a number of tasks and evaluate them and not put every single future task into one group at this time.

Councilmember Reilly asked Councilmember Ballanfant if he would prefer not to have a facilities master plan.

Councilmember Ballanfant said he thinks that an evaluation group can review the plan because they are very professional and qualified to do that type of analysis and then bring the information back to Council for a decision on which path to take.

Mayor Pro Tem Kelly said that is what Council is trying to do right now with the people it is interviewing for the task force. He said Council is trying to figure out what the scope would be of what they will be asked to do. He said the scope he was thinking is very general in that he suggests they take the plan and ask them to review it and let Council know what they think it needs to do.

Councilmember Turner asked if anyone felt uncomfortable not having read the document.

Councilmember Reilly said whatever modification was made, it is the May document with some minor modifications approved by the previous Council. Councilmember Turner replied that that document had not been published either.

Councilmember Reilly said everyone has seen that May document and this document is not materially different.

Mayor Pro Tem Kelly suggested holding a workshop to iron out any issues. Councilmember Reilly said he seconds that motion.

Mayor Pro Tem Kelly said Council has already had its first round of interviews for the task force with another round scheduled for Thursday night. He suggested continuing with the second round of interviews and then holding the workshop to discuss what it is Council is trying to get to. He said Council has to start somewhere because it's a long-term process that won't be done in a couple of months.

Mayor Sample said she doesn't know if this is going to be a long-term process and said she doesn't want to burden the residents with that.

Mayor Pro Tem Kelly told the mayor that is her opinion and said regardless of whether the process is short term or long-term, Council is going to have to start somewhere.

Councilmember Reilly said he thinks a workshop to discuss this makes eminent sense.

Mayor Pro Tem Kelly said by the time the workshop is held, Council would have had time to review and study the plan and bring ideas on what direction to give the task force.

Councilmember Turner said she agrees with this as long as someone like Mr. Gerber is in attendance to moderate the workshop.

Mayor Pro Tem Kelly said he has no problem with that.

Councilmember Reilly said he seconds Bob's motion.

Mayor Pro Tem Kelly said he had not yet made a motion.

City Manager Peifer said, semantically, this is a planning tool versus plans and also important to know is that the use of "aggregation of properties" "land swap" and "super block" interchangeably. He said when Council reviews this, it needs to have an open mind because there is the philosophy of however or whenever it may happen of acquisition of properties versus what was at one time a formulated deal that did not go through. He also said to the best of his recollection, the previous Council did receive and accept the July plan with comments from two councilmembers, which were given to the consultant to incorporate into the plan and then put on the shelf for the new (this) council. He apologized for it not being part of Council's inaugural package and said the final July 2015 plan, with all the comments by the prior two councilmembers are incorporated into the final document and is the one Council should have for its review and study.

Councilmember Reilly said he is very familiar with the document provided in May and would like staff to provide a copy of the July plan with the changes highlighted in advance of the workshop. He also said it would help to decide on the number of the members for the task force in advance of the workshop.

Councilmember Reilly told Mayor Pro Tem Kelly that he thought he had made a motion. He said regardless, he motions that it be put on an agenda, or that Council hold a workshop in advance of the next City Council meeting to go over this. He suggested the first Council meeting in December.

Mayor Pro Tem Kelly said Council isn't faced with what it had to face with the police station. He said Council has some time.

Councilmember Reilly said in advance of the workshop, it would be helpful to decide the number of the members on the committee. He asked the City Secretary to add that to the agenda for Thursday night.

Mayor Pro Tem Kelly asked City Secretary Lenz if that was possible and she replied it wasn't as the agenda had already been posted in accordance with the law.

Councilmember Reilly requested that an item to discuss the number of members for the task force be added to the November 16, 2015 Council meeting agenda, because it would be difficult to select folks if Council doesn't know that number. Councilmember Turner seconded his request.

Councilmember Reilly said whatever decision is made about this document, it will be held up seven or eight years from now when folks actually want to do rebuilding, which is why citizen input is so important. He said if there is something on the table that is completely opposed by citizens, it shouldn't be an option.

Councilmember Turner said she agrees, but she thinks that everything that is proposed in the document is just a recommendation, not a policy matter.

Councilmember Reilly said he would call the last election a policy decision about whether to build a super block adjacent to City Hall.



**7. Tri-Sports Memorandum of Understanding**

Matters related to a Memorandum of Understanding (MOU) with Tri-Sports. *Recommended Action: Approve MOU between the City and Tri-Sports for 2016.*

Parks and Recreation Director O'Connor presented this item, along with Tri-Sports President Gregg Thompson.

Mr. O'Connor said the changes between this MOU and the 2015 MOU are primarily dates.

Regarding the question posed earlier by a resident as to whether \$1,000,000 per occurrence and the \$2,000,000 aggregate were sufficient by today's standard, he said he checked with the Risk Manager who checked with the City's insurer who assured staff that \$1,000,000 is more than adequate in protecting the City from any liability.

Mr. O'Connor reviewed the changes with Council.

Mr. O'Connor said the payment will be \$125,000, the same as last year, and it remains \$125,000 through 2019 when both parties will meet and assess the payment structure during the City's 2020 budget preparation process. He then asked if there were any questions from Council.

Councilmember Turner said she knows that there have been struggles with recycling in previous years, particularly with Tri-Sports, and she asked if the issue has been more or less resolved or is the City still fighting an uphill battle with getting an adequate amount of recycling done.

Mayor Sample asked Orval Marlow, Chair of the Recycling Committee, to come forward and speak on the issue.

Mr. Marlow said it has gotten better, but is still a work in progress. He said there is still a problem with the amount of trash that's in the recycling bins, which is a constant problem. He said it is a matter of taking more of an approach to working with the three different sports to try to put volunteers in place to move things around and having more campaigns. He said they started a campaign last year, but it didn't go as well as they thought it would with WULL.

Councilmember Turner said this has been an issue with Tri-Sports since she was on recycling, so it sounds as if the City isn't making a great deal of improvement and she is wondering if the organization has a suggestion that would get it a little bit forward.

Mr. Marlow said what they will try to attempt to do this year is get a campaign started with WULL to focus more on the idea of recycling. He said they have started by creating posters to put in the dugouts.

Mr. O'Connor said over the last four years, significant improvement has been made, but maybe not in the end result. He said the City has had those challenges, also, in all of the parks within the City.

Mr. O'Connor said Tri-Sports has assigned a recycling liaison for each of its leagues and is trying to get the message out. He said it is comforting to hear that Mr. Marlow and his board are working with Tri-Sports.

Mr. Thompson spoke to say if there are any recommendations Council would like for him to take to the league, he'd be happy to do so.

Councilmember Reilly asked Mr. O'Connor to provide the reason for the increases over the years.

Mr. O'Connor said the following commitments were made to Tri-Sports over the years:

- 2004-2009 the cost was \$30,000
- 2010-2013 the cost was \$80,000 per year to help with cost of developing the athletic fields at the West U recreation campus
- 2014 the cost was \$100,000 to help with the lighting and irrigation systems at that same complex
- 2015/2016 through 2019 the cost is \$125,000

Mr. Thompson then spoke to say that his predecessor, Bob McLamb took over Tri-Sports in 2004 and discovered that the cost to operate the fields was significantly more than the \$30,000 or \$40,000 Tri-Sports was receiving, so the increases have really been in recognition of the shortfall that has existed. He said today the costs run about \$210,000 just to cut, prep, fertilize, and transition between each season and the total funding, including electrical and water received from the City of West U total approximately \$180,000. He said this number does not include any of the capital expenditures Tri-Sports has incurred.

Mr. O'Connor confirmed that the capital improvements are being made on City land and, therefore, the City owns those improvements.

Councilmember Reilly asked Mr. O'Connor, from staff's perspective, has the City gotten the better end of the deal given the improvements. Mr. O'Connor responded yes, he said it is a substantial benefit to the City. He said the cost is substantially less using Tri-Sports volunteers than if the City had to fund it.

Councilmember Reilly asked Mr. Thompson if Tri-Sports did any kind of internal accounting on the City's contribution to Tri-Sports and to how that is split up between the sports.

Mr. Thompson said Tri-Sports accounts for the shortfall. He said all the funds go to maintain the fields and the shortfall is billed out based on a weighted average of square-footage of actual turf being used and time of use throughout the season.

Councilmember Reilly said he noted that the Piranhas are charged \$25 for non-residents who enroll in the Piranhas, but the City doesn't do any resident/non-resident distinction on the program Tri-Sports provide and asked if there was any reason for that.

Mr. O'Connor responded that four years ago when the City started the MOU with the Piranhas, they extended the offer to give back. He said their sport is only a five-week season whereas Tri-Sports is year-around and they offered to levy a \$25 fee for the few non-residents they have, because they wanted to give back. He said the City did not mandate or encourage it.

With no further questions, Mr. O'Connor moved forward with the recommendation that Council authorize the city manager to direct the Director of Parks and Recreation to execute the 2016 Memorandum of Understanding between the City of West University Place and West University Place Tri-Sports Association.

Councilmember Ballanfant moved to approve Mr. O'Connor's recommendation. Councilmember Turner seconded the motion. **MOTION PASSED.**

**Ayes:** Sample, Kelly, Ballanfant, Reilly, Turner  
**Noes:** None  
**Absent:** None

**8. West U Aquatics Memorandum of Understanding**

Matters related to a Memorandum of Understanding (MOU) with West U Aquatics. *Recommended Action: Approve MOU between the City and West U Aquatics for 2016.*

Parks and Recreation Director O'Connor presented this item. He said the Memorandum of Understanding between the City and West U Aquatics, doing business as West University Place Piranhas. He said the team has been in existence since the early 1950's and over the years the team has been managed by both the City and, most recently, a volunteer parent Board of Directors.

Mr. O'Connor said the 2016 MOU defines the roles and expectations of the two entities and is intended to protect the best interest of both the City and West U Piranhas. He said the highlights within the document notes changes from the previous year's MOU.

Councilmember Turner said she would like the year added to the priority use hours.

With no additional questions/revisions, Mr. O'Connor recommended that City Council authorize the city manager to direct the Director of Parks and Recreation to execute the 2016 Memorandum of Understanding between the City of West of University Place and West University Place Aquatics d/b/a Piranhas Swim Team, with the inclusion of the edits provided by Councilmember Turner.

Councilmember Turner moved to approve staff's recommendation. Mayor Pro Tem Kelly seconded the motion. **MOTION PASSED.**

**Ayes:** Sample, Kelly, Ballanfant, Reilly, Turner  
**Noes:** None  
**Absent:** None

**9. West U Baptist Church Memorandum of Understanding**

Matters related to a Memorandum of Understanding (MOU) with West University Baptist Church. *Recommended Action: Approve MOU between the City and West University Baptist Church for 2016.*

Mr. O'Connor presented and said the City entered its first formal MOU with the West University Baptist Church (WUBC) in 2012. He said prior to that, at least since 1994, the City had an informal agreement with the WUBC that allowed the City to use its gymnasium for the City's adult volleyball and basketball leagues in exchange for the WUBC use of the Community Building for its outreach programs.

Mr. O'Connor said the City allows the WUBC free use of the Community Building/Senior Center space for their Sunday school programs, but charges a market rate for janitorial service fees. He said the City and WUBC enjoy a mutually beneficial partnership and said the 2015 MOU has worked out quite well and staff is recommending no new changes to the 2016 MOU, other than specific dates.

In response to a previous inquiry by Councilmember Reilly as to which parking lot does the City use in exchange for the church's use of the Community Building, Mr. O'Connor said the lot in question is directly behind the Community Building and Senior Center.

Before additional comments from Council, Mayor Sample requested that comments from the public who signed up to speak on this item be heard at this time.

**Harry Craig**, resident at 839 Merridel and member of the WUBC, spoke in favor of the MOU between the church and the City. He said the church has always tried to be a good neighbor and they've shared and shared alike. He said this MOU is just another opportunity to share a lot, which is the closest lot to the senior center and library building. He said the church appreciates the City's use of the facilities and with the City using the parking lot, the church feels that it's a fair exchange and they would like to continue with the MOU in 2016.

**David Dutch**, 3901 Rice, spoke to ask if this MOU includes a new Sunday school proposal, because on Sunday's the Chinese Church is there. Councilmember Turner said that is part of West U Baptist and is just an extension of the existing arrangement.

There were no more public comments.

Mr. O'Connor stated that Councilmember Reilly also asked if there was signage available indicating whether West U Baptist parking lots were available to the Senior Center and Community Building and Mr. O'Connor responded that there is no signage and to his knowledge there hasn't been, but it is common knowledge. He said the City has a lot of mobility challenged patrons that participate in the programs at the Senior Center and Community Building and parking has not been an issue. He said with Council's direction, however, he would be more than happy to check with the church representatives to see if they would be amenable to the City erecting such signage.

Councilmember Reilly said in an earlier MOU, an actual term of the MOU was that the City could not erect such signage without further discussions with the church. He said it seems to him that if the City is going to designate those public parking spaces for an extensive period of time, there should be some public notice that it is parking for all the residents of the City.

Mr. O'Connor said another question by Councilmember Reilly was how many spaces at the parking lot are used each day on average by the Community Center users and he responded that there are 49 total spaces (46 regular and 3 handicap spaces). He said the daily average has been calculated at 35 parking spaces daily and said four of those spaces are used by staff and volunteers.

Mr. O'Connor said another question by Councilmember Reilly was whether the City has solicited or received requests from other churches or groups to use the City's facility and Mr. O'Connor responded that, yes, the City receives requests regularly and has had a total of three churches rent the Community Building, Senior Center and Scout House for their services. He said the experience has been that all the churches are startups and once they grow their congregation to a certain point through renting the City's facilities, they can afford to purchase or construct their own facilities. He said the City currently has one church renting the Community Building/Senior Center other than the WUBC for religious services and related outreach, which involves multiple days out of the week and is on target to be a \$20,000 revenue stream for the City.

Councilmember Reilly asked if that church is paying the City's posted rates and Mr. O'Connor replied that they are. He said so that church is paying the City \$20,000 and the WUBC is paying a much smaller amount with the parking lot.

In response to Councilmember Reilly's question as to what would WUBC pay if the City charged them the posted rate, Mr. O'Connor responded that the monetary value for that facility rental to WUBC would be \$61,800, less the rental caretaker costs of \$5,400, so about \$56,420.

Mr. O'Connor said it would be highly unlikely that the City would ever have a request to rent all four rooms at once time, which is what is unique about WUBC. He said they use four rooms within the facility, so a conservative estimate of the total monetary value is probably closer to \$25,000 to \$28,000 per year.

Councilmember Reilly pointed out a couple of additional things. He said in 1995, the City entered into an agreement with WUBC to lease Parking Lot Number 1, which was done in exchange for the City resurfacing Parking Lot Number 1. He said the City paid \$15,000 and for that amount, the City got a 10-year agreement to lease the parking lot and make it available for public use from 7:00 am to 11:00 p.m., and in a later agreement, 15 spaces were dedicated to Public Works. He said so the City was paying around \$1,500/year for 40 spaces. He said he understands there is a value to Lot Number 3 and the spaces for the seniors, but Lots 1 and 2 are available to the City and so it seems to him that if the City is giving up, either conservatively \$28,000 or on the high end another \$61,000 in rental value if the posted rates were charged as is for other churches, the City is renting relatively a small number of spaces in Lot 3 for quite a big annual payment in comparison to what was done in the past. Councilmember Reilly said it seems the City has an obligation to its citizens to get value for what it's providing. He said the City needs to have a payment from WUBC that more closely approximates the value of that building. He said he is a fan of the church's programs and doesn't want them to go away, but it seems to him that the City is not getting comparable value.

City Manager Peifer said the shared agreement and mutual cooperation agreement has probably existed since the 40's and 50's and at some point he envisions that it is in recognition of the fact that the church actually deeded land that the City sits on today.

Councilmember Reilly said he understands that, but if long-time resident John Neighbors wants to rent the Rec center and only wants to pay the janitor fee because of his long-term relationship with the City, he doesn't think the City would do it. Mayor Sample said the City would if he owned a parking lot. Councilmember Reilly said he thinks the City would say we have a posted rate and so you'll have to pay that rate. Councilmember Reilly said given that is exactly what the City is doing to other churches, it is hard for him to reconcile as a custodian of the City's funds.

Mr. O'Connor said it goes beyond the tit for tat parking for use of the building in his opinion. He said it has been his experience and his tenure as an employee of the City that the church has been good to the City. He said in addition to other occasions, he thinks back to Hurricanes Katrina and Ike and would hate to think what the bill would have been on what the church afforded the City. He said they put up City employees and their families and allowed the City full use of their facility for a full seven days and charged the City nothing.

Mr. O'Connor pointed out that the Tri-Sports agreement also involves use of the Community Building and Scout House and he believes the value is somewhere in the neighborhood of \$15,000 and goes directly to support the community.

Mr. O'Connor said staff serves at the pleasure of Council and will do whatever interim City Manager Peifer tells him to do, but if he is hearing Council correctly, is the City putting approval of this MOU on hold? Councilmember Reilly said he is only one person and would need Council support, but what he would like is for staff to go back and think about a rate that recognizes the value that is being provided, but that is more consistent with what the public is being charged. He said he doesn't think the City is getting what is being spent. He said he understands that it is good to have good relationships with neighbors, but the City is being asked to approve this agreement and this agreement is substantially below market value even recognizing that the WUBC is making available the use of parking spaces. He said he looked back at the 2011 MOU and recommends looking at the entire relationship and make sure it is equitable for both parties. He said his guess is that there is no reason why Lot #3 wasn't covered by the 2011 MOU other than to provide some additional consideration for the rental of the Community Center. He said all of the other lots are covered by it, but Lot #3 is conspicuously left out.

Mr. O'Connor said the City and WUBC had a gentlemen's agreement for years and it was decided in 1994 to have a written MOU with the WUBC, as well as with West U Aquatics.

Councilmember Reilly said there is some value to the parking lot, but it's certainly not \$50,000 per year. He said that's way too much, especially when the City has Lots 1 & 2.

Mr. Craig spoke to say that if you figure \$5 per day for 24 cars at 20 days per month, that's \$30,000 per year, so the WUBC is giving value to what the City is giving it for the space.

Councilmember Turner said she 100 percent disagrees with what Councilmember Reilly is saying and moved to accept staff's recommendation to authorize the City Manager to direct the Director of Parks and Recreation to execute the 2016 Memorandum of Understanding between the City of West University Place and the West University Baptist Church. Mayor Sample seconded the motion.

Mayor Pro Tem Kelly said it is very healthy for Council to discuss all sorts of matters that affect the City and said there is nothing personal in any of the discussions. He said there is no anti-church in any of this and that it's just a discussion. He said if there is no discussion, there is no real representation of the citizens. He said if Council just sat there and voted on motions without discussion, the citizens wouldn't know anything. He said he saw a report in the paper that said "Kelly seconds everything that Brennan puts up" and he said he doesn't do that. He said he seconds everything just about for anybody to get it onto an agenda to be discussed. He said that's a difference of a second when you're getting to a motion for action and he doesn't second everybody's or anybody's motion for action all the time and he didn't on this one – the mayor did on this one. Mayor Pro Tem Kelly said maybe some of it is a spillover from the other Council, which he did come up to City Hall to watch a lot and it sounds like they were in and out in about 30 minutes. He said he doesn't think that really gives West U citizens a real understanding of what the issues are in the City. He said he thinks the thing that Brennan has brought up, whether or not Council votes do anything with it or not is irrelevant. He said it's a discussion and things that he hasn't thought about and so he thinks a discussion is healthy and thinks it is really unhealthy if councilmembers start to resent discussion. He said if unpleasant, Council needs the discussion because the citizens need to hear it and the fact that whatever happens on what Brennan has brought up, doesn't negate the fact that it wasn't unhealthy to have the discussion and hopes the church doesn't go home tonight with their feelings hurt that Council had this discussion. He said he thinks it's healthy.

Mayor Sample said she appreciates that and sometimes personal feelings do come into discussions.

Mayor Sample said she had a couple questions and asked why would the City prefer Lot 3 to Lots 1 and 2 as Councilmember Reilly suggests?

Mr. O'Connor replied that it is because of the proximity of Lot 3 to the Senior Center and Community Building. He said it's the shortest parking distance for a patron, a majority of which are seniors, to get to either of those facilities.

Mayor Sample asked Mr. O'Connor what was meant when he said that the City have an offer for all four rooms in the Community Building and don't get that often, if ever. She said she doesn't believe that Mr. O'Connor was talking about a volume discount, but rather that the opportunity costs would be more like if somebody wanted the rooms the entire weekend, which is unlikely, that it would most likely be one or two rooms, so the City's opportunity costs are a lot lower.

Mr. O'Connor replied that Mayor Sample is accurate. He said if staff is conducting a 50<sup>th</sup> wedding anniversary or celebration, he wouldn't want a 7 or 8 year olds birthday party going on in the room down the hall; so, if staff does rent a facility, it is generally room specific. He said if someone rents the auditorium, it's highly unlikely that someone else would rent any of the other three rooms in the facility.

Councilmember Reilly asked Mr. O'Connor if staff rents the auditorium to a resident, the charge would be \$50 for a large room, \$45 for the admin fee, and then if they are also using the kitchen that would be an extra \$25, correct? Mr. O'Connor said that is correct. Councilmember Reilly said that is \$120 per hour for just one room, plus the kitchen versus what the City is receiving now, which is \$68. He said so the cost is actually \$840 for a seven hour slot versus \$68.

Mr. O'Connor said the total hour value is \$170 for seven hours and \$1,190 per week at the 52 weeks, for a total of \$61,880. He said the church pays its own rental caretaker, so the cost is down to \$56,000. He also said the church doesn't always use all four rooms.

Councilmember Reilly asked Mr. O'Connor, if he had a church that only needed the auditorium, the posted rate is \$50 per hour for that room and if they are going to serve food, they have to pay another \$45 and to use the kitchen is another \$45; so, again, if you had one church rent just one room, they would pay \$120 per hour or \$840 per Sunday to rent that one room, which is roughly \$45,000 per year. He said that is one room and the City is renting all four rooms for \$68. He said he understands the City is also getting the parking, which he thinks has value, but he doesn't think the value is \$45,000 or \$50,000 per year. He said the City certainly doesn't assign that value to any of the other lot sharing the City does under the other agreements with the church. He said it's an extraordinary amount of money for a very small number of parking spaces, of which very few are occupied on any given day.

Councilmember Ballanfant said the discussion has been valuable.

At this time a vote was made on the motion. **MOTION PASSED.**

<b>Ayes:</b>	Sample, Kelly, Ballanfant, Turner
<b>Noes:</b>	Reilly
<b>Absent:</b>	None

**10. Future Agenda Items**

Matters related to future agenda items. *Discuss and take any desired action.* **City Council** [see Future Agenda Items List]

No discussion at this time.

**11. Consent Agenda**

All Consent Agenda items listed are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council member requests in which event the item will be removed from the Consent Agenda and considered in its normal sequence on the agenda.

**A. City Council Minutes**

Approve the City Council Minutes from the meeting of October 26, 2015 and the Special Meeting of November 2, 2015. *Recommended Action: Approve Minutes.*

Mayor Pro Tem Kelly moved to approve the Consent Agenda as presented. Councilmember Turner seconded the motion. **MOTION PASSED.**

**Ayes:** Sample, Kelly, Ballanfant, Reilly, Turner  
**Noes:** None  
**Absent:** None

**12. Manager/Council Reports**

There were no manager/council reports.

**13. Adjourn**

With no further discussion, Councilmember Turner moved to adjourn the meeting at 8:52 p.m. Mayor Pro Tem Kelly seconded the motion. **MOTION PASSED.**

**Ayes:** Sample, Kelly, Ballanfant, Reilly, Turner  
**Noes:** None  
**Absent:** None

Prepared By:

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Thelma A. Lenz, City Secretary

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Date Approved





# The City of West University Place

*A Neighborhood City*

## CITY COUNCIL

Susan Sample, Mayor  
Bob Kelly, Mayor Pro Tem  
Burt Ballanfant, Councilmember  
Brennan Reilly, Councilmember  
Mardi Turner, Councilmember

## STAFF

M. Chris Peifer, City Manager  
Alan Petrov, City Attorney  
Thelma Lenz, City Secretary

## CITY COUNCIL MEETING MINUTES

The City Council of the City of West University Place, Texas, met in special and regular session on **Monday, November 16, 2015**, in the Municipal Building, 3800 University, West University Place, Texas beginning at **6:00 p.m.**

Agenda Items were as follows:

**SPECIAL MEETING/WORKSHOP** (held in the Council Chamber Conference Room at 6:00 p.m.)

Agenda Items were as follows:

**Call to Order.** Councilmember Ballanfant called the special meeting to order at 6:04 p.m. in the Council Chambers. Council and Staff in attendance were: Councilmembers Reilly and Turner, Interim City Manager Peifer, City Secretary Lenz, and City Attorney Petrov. Mayor Pro Tem Kelly was absent and Mayor Sample arrived at 6:25 p.m.

### 1. **City Manager Position**

Matters related to the city manager position.

#### **Recess Special Meeting and Convene Executive Session**

Notice is hereby given that the City Council will convene into executive session in accordance with the following provisions of Chapter 551 of the Texas Government Code:

At 6:04 p.m., Councilmember Reilly moved to recess the special meeting and convene into executive session. Councilmember Turner seconded the motion. **MOTION PASSED.**

**Ayes:** Ballanfant, Reilly, Turner  
**Noes:** None  
**Absent:** Sample, Kelly

Mayor Sample arrived at 6:25 p.m.

### 2. **Close Executive Session and Reconvene Special Meeting**

At 6:34 p.m., Councilmember Ballanfant moved to close the executive session. Councilmember Turner seconded the motion. **MOTION PASSED.**

**Ayes:** Sample, Ballanfant, Reilly, Turner  
**Noes:** None  
**Absent:** Kelly

At 6:34 p.m., Councilmember Ballanfant moved to reconvene the special meeting. Councilmember Reilly seconded the motion. **MOTION PASSED.**

**Ayes:** Sample, Ballanfant, Reilly, Turner  
**Noes:** None  
**Absent:** Kelly

**3. Adjourn**

With no further business to discuss, Councilmember Turner moved to close the special meeting at 6:35 p.m. Councilmember Ballanfant seconded the motion. **MOTION PASSED.**

**Ayes:** Sample, Ballanfant, Reilly, Turner  
**Noes:** None  
**Absent:** Kelly

City Attorney Petrov left after the special meeting. Assistant City Attorney Shelly Eversole sat in as legal representation for the regular meeting.

**REGULAR MEETING (beginning at 6:30 p.m. in the Council Chambers)**

Agenda items were as follows:

**Call to Order.** Mayor Sample called the meeting to order at 6:35 p.m. in the City Council Chambers. Council and Staff in attendance were: Councilmembers Ballanfant, Reilly and Turner, Interim City Manager Peifer, Assistant City Attorney Eversole, City Secretary Lenz, Public Works Director Beach, and Police Chief Walker. Mayor Pro Tem Kelly was absent.

Councilmember Turner led the Pledge of Allegiance.

City Secretary Lenz confirmed that the notice of this meeting was duly posted in accordance with the Texas Government Code, Chapter 551.

**4. Public Comments**

This was an opportunity for citizens to speak to Council relating to agenda and non-agenda items.

There were no comments from the public.

**5. City Manager Position**

Matters related to taking any desired action as a result of the executive session regarding the city manager position. *Recommended Action: Discuss and take any desired action.*

Councilmember Reilly moved to retain Chris Peifer as the City Manager and approve the employment agreement with the changes discussed with the City Attorney to Section 6.3 and Section 2C of Exhibit A, which refers to the time of payment of severance in the event a unilateral severance payment is due under the agreement. Councilmember Turner seconded the motion.

Councilmember Reilly said Council started this process several months ago when the prior city manager was terminated and he thinks the City has found an excellent replacement at a minimal cost to the City. He said Chris has agreed to serve as the city manager for a compensation that is appropriate given his duties and that it is substantially less than what the City was paying the prior city manager. He said he can't commend Chris enough for his willingness to present to the City an initial draft of an employment agreement that basically treats him like the rest of the senior staff at the City.

Councilmember Ballanfant echoed Brennan's comments. He said over the past few months Chris has met and exceeded expectations, so he thinks this is a good move.

Mayor Sample said she doesn't want Chris to think Council is minimizing what the City is paying him. She said the prior city manager had been with the City for about 15 years and generally there are pay increases, so Chris is not being short-changed.

At this time a vote was made on the motion. **MOTION PASSED.**

<b>Ayes:</b>	Sample, Ballanfant, Reilly, Turner
<b>Noes:</b>	None
<b>Absent:</b>	Kelly

#### **6. Facilities Master Plan Task Force**

Matters related to the Facilities Master Plan Task Force including, but not limited to, the scope, composition and other related topics. *Recommended Action: Discuss and take any desired action.*

Councilmember Reilly presented and said Council interviewed a slate of candidates for the City's Facilities Master Planning Task Force and before making appointments Council wants to have a workshop to discuss the scope of the master plan review. He said that he thinks it would be appropriate now to have a conversation as to whether to set the number of task force members currently or wait until Council has a workshop and decides on the scope of the project.

Councilmember Turner said having the workshop and getting some ideas flowing before deciding on the ultimate number is probably appropriate, but at the same time she is also thinking along the line of 9 to 11 members.

Mayor Sample said she was also thinking 9 to 11 members. She said having more than that could become too unwieldy.

Councilmember Turner said she actually feels 9 or 11 (not 9 to 11) would be better, because even numbers don't work in this kind of a scenario.

City Manager Peifer said staff would target the first two weeks of January for a workshop and will send out calendar options.

Councilmember Ballanfant reiterated his comments from the previous meeting by saying that he doesn't conceive of this group being a master plan task force. He said they should do what Council gives them to do, which is to evaluate the physical needs of the City and then report their factual

findings to Council to determine what to do with those findings. He said it should be an evaluative task force not a master planning task force.

Mayor Sample said that will be discussed in the workshop. She said tonight Council is only deciding whether to vote on the number of people for the task force, not the scope.

Councilmember Reilly said he would like a larger task force and said 11 members is a better number because to the extent Council will give them a larger scope, he would want to have the ability to not just go by consensus, which he thinks smaller groups will tend to do and that's not always essential to get to a good result.

Council agreed to hold off on the decision regarding the number of members until after deciding the scope of the task force at the workshop.

## **7. Water/Wastewater Revenue Bonds**

Matters related to refinancing water/wastewater revenue bonds. *Recommended Action: Discuss and take any desired action.* **Ms. Rhonda Daugherty, Finance Director** [See Agenda Memo 7]

Finance Director Daugherty presented and introduced John Robuck with BOSC Agency, Inc.

Mr. Robuck provided an overview of the current bond market as it is today and discussed with Council the opportunity to refinance the City's water and sewer bonds for a savings of over \$175,000. He said the City is in a great market environment to sell General Obligation bonds to refund existing outstanding bonds.

Councilmember Ballanfant asked how long the City has to sell the bonds. Mr. Robuck responded that the City can go as far out as it wants but the further the City goes out, the higher the interest rates will be.

When Mr. Robuck asked Councilmember Ballanfant if he was looking to lower the rates, Councilmember Ballanfant responded yes, because the people who have been living in the City the last 10 or 15 years have been paying a relative large tax imposition that the infrastructure program required and so he thinks that all those citizens that have been paying those taxes ought to have some relief from the payment and not have to die without ever having seen essentially lower rates, so he would like to explore the longest time the City can push it out. He said most of the people living in the City today have paid a heavy tax burden and, to the extent the City can relieve that, he thinks it should at least be discussed.

Ms. Daugherty said for what it's worth, these bonds and this refunding are not paid with property taxes, but rather with water and sewer fees.

Councilmember Ballanfant said whatever you call it, the City citizens are going to pay it, whether it's a fee or a tax.

Councilmember Reilly said the bonds currently carry an interest rate of 4.31 and confirmed with Mr. Robuck that the City will be placing them for a rate of 2.11 percent.

In regards to Councilmember Ballanfant's concern about extending the term to repay, City Manager Peifer said there is a point where it becomes financially feasible to do a refinance. He said if the City goes further out, it be likely that it would no longer be advantageous to refinance.

Mr. Robuck continued with his presentation and said the City will see a savings of approximately \$28,000 per year for the next 6 years for a total savings of \$175,000.

Councilmember Reilly confirmed that the City is only refunding \$3,000,090 of the outstanding debt.

Councilmember Reilly asked Mr. Robuck to explain the Debt Service paid by Water/Sewer. Mr. Robuck said that is the cost of bonds the City previously refunded to the General Obligation side, as is being done here, and the City is making transfers every year to pay the debt from the Water/Sewer side to the General Obligation side.

Councilmember Reilly confirmed with Mr. Robuck that the savings with this refunding will go away in 2022 because it is being proposed that the \$3,000,000 be refinanced with a new 7-year bond.

Mr. Robuck said the refunding is not extending the principal amounts or the lengths of the debts. He said it is like refinancing a home from a 30-year to a 30-year with a lower interest rate.

Councilmember Reilly asked if the City went out to 12 years, would it get a better rate. Mr. Robuck said it would be a little higher because the average maturity is longer than 12 years.

Mr. Robuck completed his presentation and said his firm is looking to sell the bonds on December 14, 2015 and bring the results to Council at its meeting that evening.

In response to Councilmember Reilly's question, Mr. Robuck said the City's total outstanding debt as of December 31, 2015, with principal and interest, will be \$57,105,000.

Councilmember Reilly stated that if the City wanted to extend some debt, this is the chance to do it.

Councilmember Ballanfant said Mr. Robuck did a fine job and it will benefit the City, but doesn't believe all the options that Council could have evaluated were presented. He said in the future he would like to see more than just one structure because time, percentage rate and volume can always be moved. Councilmember Reilly agreed.

Councilmember Turner moved to approve the Schedule of Events for the sale of Permanent Improvement Refunding Bonds, Series 2016, for the purpose of refunding certain maturities of the Series 2005 Waterworks and Sewer System Revenue Refunding Bonds. Councilmember Ballanfant seconded the motion. **MOTION PASSED.**

**Ayes:** Sample, Ballanfant, Reilly, Turner

**Noes:** None

**Absent:** Kelly

#### **8. Harris County Appraisal District Board**

Matters related to a resolution casting the City of West University Place's City Council vote for the person it would like to serve on the HCAD Board of Directors. *Approve resolution casting the City's vote.*

City Manager Peifer presented and said Council is being asked to vote for one of two candidates – Ed Heathcott, former West U City Councilmember and James Avioli, Councilmember from Bellaire.

Councilmember Turner moved to approve a resolution casting the City's vote for Ed Heathcott to serve as a member of the Board of Directors of the Harris County Appraisal District. Councilmember Ballanfant seconded the motion. **MOTION PASSED.**

**Ayes:** Sample, Ballanfant, Turner  
**Noes:** Reilly  
**Absent:** Kelly

**9. Houston-Galveston Subsidence District**

Matters related to the appointment of a member to the Harris-Galveston Subsidence District Board. *Recommended Action: Appoint City Attorney Alan Petrov for another 2-year term, expiring January 31, 2016.*

City Manager Peifer presented and said City Attorney Petrov has served on the Harris-Galveston Subsidence District Board for a number of years, most recently serving as its chairman. He also noted that the City received a letter from the City of Southside Place endorsing the appointment of Mr. Petrov.

Councilmember Turner moved to request that the mayor send the Letter of Election for Alan Petrov to the Harris-Galveston Subsidence District Board. Councilmember Reilly seconded the motion. **MOTION PASSED.**

**Ayes:** Sample, Ballanfant, Reilly, Turner  
**Noes:** None  
**Absent:** Kelly

**10. Future Agenda Items**

Matters related to future agenda items. *Discuss and take any desired action. City Council*

Regarding the Facilities Master Plan Task Force, Councilmember Reilly said he would like to schedule the workshop as soon as possible, realizing that it will be difficult to schedule before the end of the year.

City Secretary Lenz said she will review the calendar for potential dates after the holidays and will poll Council once a few dates are determined.

**11. Consent Agenda**

All Consent Agenda items listed are considered to be routine by the City Council and will be enacted by one motion. There will be no separate discussion of these items unless a Council member requests in which event the item will be removed from the Consent Agenda and considered in its normal sequence on the agenda.

**A. Senior Services Board Appointment**

Matters related to appointing Susan Davis to the Senior Services Board. *Recommended Action: Appoint Susan Davis to the Senior Services Board for a term ending August 31, 2015.*

**B. Change of Start Time for December 7, 2015 City Council Meeting**

Matters related to changing the meeting start time for the December 7, 2015 City Council meeting from 6:30 p.m. to 6:00 p.m. due to the Christmas Tree Lighting festivities. ***Mr. M. Chris Peifer, Interim City Manager***

Councilmember Turner moved to approve the Consent Agenda as presented. Councilmember Ballanfant seconded the motion. **MOTION PASSED.**

**Ayes:** Sample, Ballanfant, Reilly, Turner  
**Noes:** None  
**Absent:** Kelly

**12. Manager/Council Reports**

City Manager Peifer pointed out that the start time for the regular Council meeting on December 7, 2015 has changed from 6:30 p.m. to 6:00 p.m. in order for Council to attend the Christmas Tree Lighting ceremony at 6:30 p.m. at the Community Building.

**13. Adjourn**

Councilmember Reilly moved to adjourn the meeting at 7:15 p.m. Councilmember Turner seconded the motion. **MOTION PASSED.**

**Ayes:** Sample, Ballanfant, Reilly, Turner  
**Noes:** None  
**Absent:** Kelly

Prepared By:

\_\_\_\_\_  
Thelma A. Lenz, City Secretary

\_\_\_\_\_  
Date Approved

**AGENDA MEMO**  
**BUSINESS OF THE CITY COUNCIL**  
**CITY OF WEST UNIVERSITY PLACE, TEXAS**

<b>AGENDA OF:</b>	December 7, 2015	<b>AGENDA ITEM:</b>	4B
<b>DATE SUBMITTED:</b>	December 3, 2015	<b>DEPARTMENT:</b>	Public Works
<b>PREPARED BY:</b>	D. Beach, Public Works Dir.	<b>PRESENTER:</b>	D. Beach, Public Works Dir.
<b>SUBJECT:</b>	<b>Temporary Lease Agreement for 5004 Dincans Street</b>		
<b>ATTACHMENTS:</b>	<b>Lease Agreement</b>		
<b>EXPENDITURE REQUIRED:</b>	N/A		
<b>AMOUNT BUDGETED:</b>	N/A		
<b>ACCOUNT NO.:</b>	N/A		
<b>ADDITIONAL APPROPRIATION REQUIRED:</b>	N/A		
<b>ACCOUNT NO.:</b>	N/A		

**EXECUTIVE SUMMARY**

Calco Contracting, LTD, who is performing work on the Morningside Road replacement project for the City of Houston, approached the City to temporarily lease part of 5004 Dincans Street (Recycle Center) property as a material storage yard during the project.

Calco Contracting requested use of approximately 10,000 sq. ft. of the site which does not impact the City's operations. Currently the City parks trash trucks overnight and uses the site as a temporary holding area for street sweeping debris. The contractor is responsible for installing a temporary fence between their area and the City's side and for returning the site back to its original condition to include any environmental impact should it occur.

The term of the agreement is for 6 months with a monthly rate of \$2,000. The City is requiring first and last month's rent due at signing and an additional \$2,500 refundable damage deposit. The contract can be cancelled by either party with 30 days notice.

**RECOMMENDATION**

Staff recommends Council approve a lease agreement with Calco Contracting, LTD and authorize the City Manager to execute an agreement and any subsequent requests for extension or modifications to the lease agreement that does not encumber the City's use of the property beyond the duration of the City of Houston's project.



## LICENSE AGREEMENT

THIS LICENSE AGREEMENT (this "*License*") is made this \_\_\_\_ day of December 2015 (the "*Effective Date*") by and between **THE CITY OF WEST UNIVERSITY PLACE**, a political subdivision of the State of Texas with a principal place of business located at 3800 University Boulevard, TX 77005 ("*Licensor*") and **CALCO CONTRACTING, LTD** with a principal place of business located at 8000 Berwyn, Houston TX 77037 ("*Licensee*"). Licensor and Licensee are individually referred to herein as, "Party," and collectively referred to herein as, the "Parties."

### RECITALS

A. Licensor owns that certain property located at 5004 Dincans Steet, Houston TX 77005 (the "*Property*");

B. Licensee desires to use a portion of the Property consisting of approximately 10,000 square feet, as depicted on **Exhibit A**, attached hereto and made a part of this License for all purposes (the "*Designated Area*") upon the terms and conditions as set forth herein, for the purpose of locating material storage containers, misc. materials storage, misc. construction equipment and employee parking (the "*Permitted Use*") related to the City of Houston's road construction in and around Morningside Street in the Village. (the "*Project*");

C. Licensor has agreed to license the Designated Area to Licensee upon the terms and conditions as set forth herein;

NOW, THEREFORE, in consideration of the mutual promises made herein, the Parties hereby agree as follows:

### LICENSE

1. **Recitals.** The forgoing recitals are hereby incorporated into this License by this reference.

2. **Grant of License.** Licensor hereby grants to Licensee an exclusive right to use, upon certain conditions the Designated Area for the Permitted Use subject to the express terms and conditions set forth in this License. Licensor and Licensee acknowledge and agree that this License is solely and exclusively for the Permitted Use of the Designated Area and is not intended in anyway a grant for any other uses of the Property.

3. In the event Licensee determines that additional square footage is needed for the Permitted Use, Licensor may extend the size of the Designated Area upon terms mutually acceptable to the Parties, without the need to obtain approval from the City of West University Place City Council ("*City Council*").

4. **Sublicense.** The rights and obligations granted to Licensee by this License shall not be assigned, leased, pledged or sublicensed by Licensee to any third party without the prior written consent of Licensor.

5. ***Term.*** This License is for a six (6) month term and will become effective on the Effective Date and shall expire on June 6, 2016 (the “*Term*”). In the event Licensee determines that the Term should be extended to complete the Project, Licensor may, at its sole discretion, extend the Term upon terms mutually acceptable to the Parties, without the need to obtain approval from City Council.

6. ***Rent.*** Licensee shall pay to Licensor rent in the amount of Two Thousand and No/Dollars (\$2,000.00) (“*Rent*”) on the first day of each month of the Term, except that Rent for the first and last month of the Terms shall be delivered by Licensee to Licensor upon mutual execution of this License.

7. ***Security Deposit.*** Licensee shall pay to Licensor a security deposit in the amount of Two Thousand Five Hundred and No/Dollars (\$2,500.00) (the “*Security Deposit*”) upon mutual execution of this License. The Security Deposit shall be refunded to Licensee within thirty (30) days after termination of this License; provided that Licensee shall have removed all equipment, trailers and other items (defined below) stored or installed at the Designated Area and shall have restored same to the condition that existed at the Designated Area prior to the commencement of this License.

8. ***Construction of Fence.*** Licensee shall construct a fence to separate the Designated Area from that portion of the Property used by Licensor at Licensee’s sole cost and expense. The plans, construction, materials and depth of the fence shall be approved by Licensor in its reasonable discretion prior to Licensee’s construction of same.

9. ***Electrical Drop.*** If needed, Licensee shall install an electrical drop (the “*Electrical Drop*”) at the Designated Area at Licensee’s sole cost and expense. The Electrical Drop shall be removed from the Designated Area upon termination of this License, at Licensee’s sole cost and expense. The plans, installation and removal of the Electrical Drop shall be approved by Licensor in its reasonable discretion prior to Licensee’s installation and removal of same.

10. ***Licensor Representations and Warranties Due Authority.*** Licensor represents and warrants that he has full right, power and authority to enter into this License and to perform all of its obligations hereunder. Licensor further represents and warrants that it has granted no other existing license to use the Designated Area for the Permitted Use during the Term and it shall grant no such other license to use the Designated Area during the Term except in accordance with the provisions hereof.

11. ***Licensee Representations and Warranties.***

(a) ***Due Authority.*** Licensee represents and warrants that it has full right, power and authority to enter into this License and to perform all of its obligations hereunder.

(b) ***Compliance with Applicable Laws.*** Licensee represents warrants and covenants that it shall comply with all applicable laws, regulations, and rules of relevant public authorities and shall procure and maintain all licenses, permits, approvals and authorizations necessary to lawfully perform its obligations as contemplated hereby.

12. ***Indemnification/Liability Insurance.*** LICENSEE SHALL RELEASE AND HOLD LICENSOR HARMLESS FROM ANY CLAIMS OR ACTIONS RELATED TO LICENSEE'S USE OF THE DESIGNATED AREA. FURTHER, LICENSEE AGREES TO OBTAIN AND MAINTAIN, AT ITS OWN EXPENSE, THROUGHOUT THE TERM, LIABILITY INSURANCE IN AN AMOUNT NO LESS THAN ONE MILLION AND NO/100 DOLLARS (\$1,000,000) PER OCCURRENCE AND TWO MILLION AND NO/100 DOLLARS (\$2,000,000) AGGREGATE. THE LIABILITY INSURANCE POLICY SHALL PROTECT AGAINST ALL CLAIMS, DEMANDS, ACTIONS, AND DAMAGES ARISING OUT OF LICENSEE'S USE OF THE DESIGNATED AREA AND SHALL NAME LICENSOR AS AN ADDITIONAL INSURED. APPLICABLE AUTOMOBILE LIABILITY IN THE AMOUNT OF ONE MILLION AND NO/100 DOLLARS (\$1,000,000) AND WORKERS COMPENSATION AND EMPLOYER LIABILITY IN THE AMOUNT OF FIVE HUNDRED THOUSAND AND NO/100 DOLLARS (\$500,000).

13. ***Property Damage.*** Licensee shall be responsible for any damage to the Designated Area or the Property caused by Licensee or any of its invitees, employees, or contractors, or as a result of Licensee's use of the Property.

14. ***Termination.*** This License may be terminated by either Party upon thirty (30) days written notice to the other Party at the address designated for each Party above.

## MISCELLANEOUS

15. ***Entire Agreement.*** This License constitutes the entire agreement between the Parties with respect to the subject matter described herein and supersedes and replaces any prior agreements and understandings, whether oral or written, between the parties hereto with respect to such matters.

16. ***Governing Law.*** This License shall be governed by, and construed in accordance with, the laws of the State of Texas.

17. ***Expenses.*** Each Party shall pay all of its expenses, including attorneys' fees in connection with the negotiation of this License, the performance of its obligations hereunder, and the consummation of the transactions contemplated by this License; *provided, however*, that in any proceeding or other attempt to enforce, construe or to determine the validity of this License, the non-prevailing party will pay the reasonable expenses of the prevailing party, including reasonable attorneys' fees and costs.

18. ***Rules of Construction.*** This License is the result of arms-length negotiations and contains the mutual wording of the Parties. Therefore, any ambiguity shall not be construed against either party. The Parties expressly waive any and all applicable common law and statutory rules of construction that any provision of this License be construed against the Licensor's drafter, and agree and affirm that this License and all provisions hereof shall in all cases be construed as a whole, according to the fair meaning of the language used.

19. ***Headings.*** Any headings of paragraphs herein are intended solely for the convenience of reference and shall not control the meaning or interpretation of any of the provisions of this License.

20. ***Invalid Provisions.*** If any provision of this License is held to be illegal, invalid or unenforceable under any present or future laws, such provision shall be fully severable, and the remaining provisions shall constitute the Parties' License agreement.

21. ***Gender/Plural.*** All words used in this License, including the words he or his and its or their, shall be construed to include the plural as well as the singular number and words used in the present tense shall include the future as well as the present and words used in the masculine gender shall include the feminine and neuter.

22. ***Counterparts.*** This License may be executed in one or more counterparts, any one of which need not contain the signatures of more than one party, but all such counterparts taken together will constitute one and the same instrument.

***[Signature Page Follows]***

**IN WITNESS WHEREOF**, the Parties have signed this License as of the Effective Date.

**LICENSOR:**

**LICENSEE:**

**EXHIBIT A**

EXHIBIT A  
5004 DINCANS STREET

LEASED  
AREA

Dincans St

Dincans St

Goode Company Seafood

North Blvd North Blvd

Steel Services

Bacco Winebar

Dincans St